

REMARKS

Reconsideration of this application is respectfully requested. Claims 1, 4, 6, 7, 11, 15 and 18 have been amended. Claims 3, 12, 13, 14, 16, 20 and 21 have been canceled. As a result, Claims 1, 2, 4-11, 15 and 17-19 are in this application and are presented for the Examiner's consideration in view of the following comments.

Applicants note with appreciation that claims 3-10 would be allowable if rewritten in independent form including the limitations of the base claim and any intervening claims.

In this regard, Applicants have equivalently amended independent claim 1 to include the requirements of dependent claim 3, which has been canceled. In addition, Applicants have amended into independent form dependent claim 7 to include the requirements of independent claim 1, from which dependent claim 7 directly depends. Dependent claims 4 and 6 have been amended to comport with the amendments of claim 1.

It should also be noted that in the interests of furthering prosecution, Applicants have amended independent claim 15 to include the requirements of dependent claim 16, which has been canceled. Also, dependent claim 18 has been amended into independent form to include the requirements of independent claim 15.

Turning now to the Office Action, claims 16 and 18-19 have been objected to because of the word "if". Although Applicants' do not agree, Applicants' have made the requested changes in amended independent claim 15 and claim 18. As such, Applicants' respectfully submit that the basis for this objection has been removed.

Respectfully, at the outset, the rejection under 35 U.S.C. §112, second paragraph, is confusing. For example, the Examiner states that claims 1-2, 11 and 22-24 have been rejected under 35 U.S.C. §112, second paragraph. Yet claims 22-24 do not exist and, in the body of the rejection, the Examiner discusses not only claims 1-2 and 11, but also claims 13-14 and 20-21.

Regardless, although Applicants respectfully disagree with respect to claims 1 and 2, Applicants respectfully submit that the above-described amendment of independent claim 1 removes the basis of this rejection for claims 1 and 2. With regard

to claims 13-14 and 20-21, these claims have been canceled. With regard to claims 22-24, Applicants respectfully note that claims 22-24 do not exist. With regard to claim 11, Applicants have amended claim 11 to remove the basis for this rejection. As such, Applicants respectfully submit that the basis for this rejection has been removed.

Claims 15-19 have been rejected under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter. Applicants respectfully disagree. Amended independent claims 15 and 18 are clearly tied to a particular apparatus. For example, the preamble of claim 15 clearly states **this is for use in a receiver**.

Further, just reading each of the steps of amended claim 15 clearly ties this to a receiving apparatus. What else would perform these steps? For example:

receiving a signal;

selecting one of a number of demodulation modes, wherein at least two of the number of demodulation modes are a hierarchical demodulation mode and a layered demodulation mode; and

demodulating the received signal in accordance with the selected demodulation mode;

wherein the demodulating step includes the steps of:

demodulating the received signal to provide a demodulated upper layer signal and a demodulated lower layer signal;

decoding the demodulated upper layer signal to provide a decoded upper layer signal;

selecting, as a function of the selected demodulation mode, either the demodulated lower layer signal or the demodulated upper layer signal for providing a lower layer signal, wherein the demodulated lower layer signal is selected when the demodulation mode is the layered demodulation mode and the demodulated upper layer signal is selected when the demodulation mode is the hierarchical demodulation mode; and

decoding the lower layer signal to provide a decoded lower layer signal.

Similar comments apply to Applicants' amended independent claim 18.

While the Examiner is obviously free to maintain this rejection, Applicants respectfully submit that amended independent claims 15 and 18 clearly pass muster under 35 U.S.C. §101 especially in view of *In re Bilski* (Fed Cir. 2008).

Claims 1, 2 And 15 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Publication 2004/0022335 published February 5, 2004 for Arslan et al. in view of Applicants' admitted prior art. Although Applicants do not agree, Applicants respectfully submit that the above-described amendments to claims 1 and 15 remove the basis for this rejection for claims 1, 2 and 15.

With regard to the remaining rejections of claims 12, 13, 14, 17, 20 and 21 under 35 U.S.C. §103(a), Applicants have canceled claims 12, 13, 14, 20 and 21. Applicants respectfully submit that the earlier-described amendment to claim 15 removes the basis of the rejection for claim 17.

With regard to the double patenting rejection of claims 15, 20 and 21, Applicants have canceled claims 20 and 21, as noted above. Applicants respectfully submit that the earlier-described amendment to claim 15 removes the basis for this rejection.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited. If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that the Examiner telephone Applicants' attorney in order to overcome any additional objections that the Examiner might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 07-0832 therefor.

Respectfully submitted
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